

REMARKS

STATUS OF THE CLAIMS

Claims 1-20 remain in the application. Claims 1-20 stand rejected. No claims have been added. No claims have been canceled. Claims 4, 5, 8, 9, 11, 14, 16, 18, and 19 are amended to more clearly claim the present invention described in the specification. No new matter has been added to the application.

EXPLANATION OF THE AMENDMENTS

Claim 4 is amended to more clearly describe where the seal blocks the airflow between the enclosure and the orifice cover.

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to point out and distinctly claim the subject matter. Claim 5 is amended to claim dependency from claim 4, instead of claim 1. Applicants respectfully submit that this amendment renders the rejection under 35 U.S.C. § 112 moot. Applicants respectfully request withdrawal of the previous rejection.

Claim 8 is amended to more clearly claim that the orifice cover prevents exhaust air from exiting the enclosure.

Claim 9 is amended to more clearly claim that the orifice cover prevents intake air from entering the enclosure.

Claim 11 is amended to more clearly claim the air-moving device using correct antecedent basis.

Claim 14 is amended to more clearly reference the claimed apparatus.

Claim 16 is amended to more clearly claim sealing between the enclosure and the orifice cover.

Claim 18 is amended to claim dependency from claim 16, rather than claim 14.

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph as being incomplete for omitting essential structural cooperative relationships of elements. Claim 19 is amended to claim dependency from claim 16, rather than claim 14. Applicants respectfully submit that this amendment renders the rejection under 35 U.S.C. § 112 moot. Applicants respectfully request withdrawal of the previous rejection.

RESPONSE TO THE CLAIM REJECTIONS UNDER 35 U.S.C. § 102(b)

Claims 1, 2, 7, 10-12, 14, 16, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by IBM Technical Disclosure Bulletin (NN950835) (hereinafter “IBM TDB”). Initially, it may be instructive to review the claimed embodiments of the present application. The present application teaches an enclosure with an orifice (paragraphs 21-22). An orifice actuator moves an orifice cover to a closed position covering the orifice when an air moving device is removed (paragraph 22). The orifice actuator moves the orifice cover to the closed position whenever the air moving device is removed. The orifice actuator moves the orifice cover to the closed position regardless of the volume or direction of air flow in the enclosure. In addition, the orifice cover may seal to the enclosure using a seal, which may be formed of an elastomeric material, that the orifice actuator moves into communication with the enclosure (paragraph 9).

Thus, one embodiment of the present invention seals the orifice even if there is no power to the air moving devices or if the orifice is used as an intake orifice to draw air into the enclosure (compared to an exhaust vent).

In contrast, IBM TDB discloses a flap that is moved to cover an orifice in an enclosure in response to gravity (IBM TDB, page 1, lines 29-32) or air pressure (IBM TDB, page 1, lines 33-38). IBM TDB also teaches an integrally molded spring that may initiate closure of the flap, but only partially closes the flap (to about 30 degrees) to allow air pressure to completely close the flap (IBM TDB, page 1, lines 33-38). Thus, IBM TDB discloses a flap that will only close an orifice when the force of gravity and/or airflow is sufficient to move the flap to a closed position. The use of gravity to close the flap requires one of a very limited number of orientations of the flap with respect to the enclosure. In general, the flap must have “its pivot uppermost.” The use of airflow alone through the gap may be insufficient to close the flap without either gravity closure or a molded spring to at least initiate the closure of the flap.

With regard to the rejection of independent claim 1, Applicants respectfully disagree with the Office Action’s characterization of the disclosure in IBM TDB. Applicants assert that IBM TDB does not disclose “a cover actuator configured to move the orifice cover from the open position to the closed position in response to removal of an air moving device,” as cited in claim 1. Rather, IBM TDB only discloses “an integrally molded spring 6, which provides *enough force to close the flap approximately 30 degrees*” (emphasis added). The IBM TDB disclosure does not disclose providing any more force than necessary to only partially close the flap. Therefore, the integrally molded spring fails to anticipate the cover actuator of claim 1.

Given that IBM TDB does not anticipate each and every feature of claim 1, IBM TDB cannot properly be used as a prior art reference to reject claim 1 under 35 U.S.C. § 102(b). Therefore, Applicants respectfully assert that claim 1 is patentable over IBM TDB and request that the corresponding rejection of claim 1 be duly withdrawn. Additionally, given that claims 2-13 depend from independent claim 1, Applicants respectfully assert that dependent claims 2-13 are also patentable over the cited reference.

Additionally, with regard to the rejection of dependent claim 4, IBM TDB fails to disclose a physical “seal configured to block airflow between the enclosure and the orifice cover while in the closed position,” as recited in claim 4. In fact IBM TDB is silent as to providing a physical seal or maintaining the flap closed in the absence of an air stream to close the flap. Furthermore, the Office Action fails to assert that any of the other cited references teaches or suggests the use of a seal as recited in claim 4.

With regard to the rejection of independent claim 14, Applicants respectfully disagree with the Office Action’s characterization of the disclosure in IBM TDB. Applicants assert that IBM TDB does not disclose “means for moving an orifice cover from an open position to a closed position in response to removal of an air moving device associated with the orifice,” as cited in claim 14. Rather, IBM TDB only discloses “an integrally molded spring 6, which provides *enough force to close the flap approximately 30 degrees*” (emphasis added). The IBM TDB disclosure does not disclose providing any more force than necessary to only partially close the flap. Therefore, the integrally molded spring fails to anticipate the means for moving an orifice cover of claim 14.

Given that IBM TDB does not anticipate each and every feature of claim 14, IBM TDB cannot properly be used as a prior art reference to reject claim 14 under 35 U.S.C. § 102(b). Therefore, Applicants respectfully assert that claim 14 is patentable over IBM TDB and request that the corresponding rejection of claim 14 be duly withdrawn. Additionally, given that claim 15 depends from independent claim 14, Applicants respectfully assert that dependent claim 15 is also patentable over the cited reference.

With regard to the rejection of independent claim 16, Applicants respectfully disagree with the Office Action's characterization of the disclosure in IBM TDB. Applicants assert that IBM TDB does not disclose "sealing between the enclosure and the orifice cover to block airflow between the enclosure and the orifice cover while in the closed position," as cited in claim 16. Rather, IBM TDB only discloses closing the flap under the influence of the air pressure within the enclosure. The IBM TDB disclosure does not disclose sealing the flap such that the flap will remain closed in the absence of positive pressure within the enclosure. Depending on the amount of air pressure produced by the combination of fans and exhaust vents, the air pressure within the enclosure may be insufficient to maintain the flap closed, potentially allowing some amount of cool air to escape the enclosure without benefiting the cooling process. Therefore, closing the flap under the pressure of the air stream is insufficient to seal the flap to the enclosure. It follows that simply closing the flap using air pressure fails to anticipate sealing between the enclosure and the orifice cover, as recited in claim 16.

Given that IBM TDB does not anticipate each and every feature of claim 16, IBM TDB cannot properly be used as a prior art reference to reject claim 16 under 35 U.S.C. § 102(b).

Therefore, Applicants respectfully assert that claim 16 is patentable over IBM TDB and request that the corresponding rejection of claim 16 be duly withdrawn. Additionally, given that claims 17-19 depend from independent claim 16, Applicants respectfully assert that dependent claims 17-19 are also patentable over the cited reference.

With regard to the rejection of independent claim 20, Applicants respectfully disagree with the Office Action's characterization of the disclosure in IBM TDB. Applicants assert that IBM TDB does not disclose "a cover actuator configured to move the orifice cover from the open position to the closed position in response to removal of an air moving device," as cited in clai2014. Rather, IBM TDB only discloses "an integrally molded spring 6, which provides *enough force to close the flap approximately 30 degrees*" (emphasis added). The IBM TDB disclosure does not disclose providing any more force than necessary to only partially close the flap. Therefore, the integrally molded spring fails to anticipate the means for moving an orifice cover of claim 20.

Given that IBM TDB does not anticipate each and every feature of claim 20, IBM TDB cannot properly be used as a prior art reference to reject claim 20 under 35 U.S.C. § 102(b). Therefore, Applicants respectfully assert that claim 20 is patentable over IBM TDB and request that the corresponding rejection of claim 20 be duly withdrawn.

RESPONSE TO THE CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB in view of U.S. Patent No. 5,963,538 to Fujimura et al. (hereinafter "Fujimura"). Claims 5

and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB in view of U.S. Patent No. 5,646,823 to Amori et al. (hereinafter “Amori”). Claims 8, 9, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB.

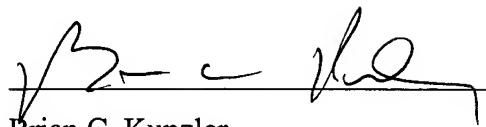
However, given that all of the rejections under 35 U.S.C. § 103(a) are to dependent claims that depend from independent claims that, as described above, are believed to be patentable, Applicants respectfully submit that the previous rejections under 35 U.S.C. § 103(a) are moot and should be withdrawn.

CONCLUSION

As a result of the presented remarks, Applicants assert that independent claims 1, 14, 16, and 20 are in condition for prompt allowance. Applicants have not specifically traversed the rejections of dependent claims 2-3, 6-13, 15 and 17-18 but believe those claims to be allowable for depending from allowable claims. See, *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Should additional information be required regarding the traversal of the rejections of the dependent claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,



Brian C. Kunzler

Reg. No. 38,527

Attorney for Applicant

Date: September 7, 2004
8 East Broadway, Suite 600
Salt Lake City, UT 84111
Telephone (801) 994-4646
Fax (801) 322-105